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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/680,016	10/07/2003	Terrence Treacy	28913.10	4712
24131	7590	10/11/2006	EXAMINER	
LERNER GREENBERG STEMER LLP			SPISICH, MARK	
P O BOX 2480			ART UNIT	PAPER NUMBER
HOLLYWOOD, FL 33022-2480			1744	

DATE MAILED: 10/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/680,016

Applicant(s)

TREACY ET AL.

Examiner

Mark Spisich

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) 13-39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☒ Certified copies of the priority documents have been received in Application No. 10/069,993.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/2004 &amp; 5/2004</u> .                                     | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election of the invention of Group I in the reply filed on 27 September 2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 13-39 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 27 September 2006.

### ***Priority***

3. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. 10/069,993, filed on 1 March 2002. ***Drawings***

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: #13 as per paragraph 0037, line 9. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New

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Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

5. The disclosure is objected to because of the following informalities: (1) "Figure 7" (paragraph 0019, line 1) should be "Figures 7a-7d"; (2) "Figures 12a and 12b" (paragraph 0039, lines 3-4) is wrong in that there are no such figures; (3) "70" (paragraph 0061, line 3) should be "170"; (4) "935" (paragraph 0070, line 5) should be "930".

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

6. Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. "Handle" (claim 11, line 1) lacks antecedent.

### ***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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8. Claim 12 is rejected under 35 U.S.C. 102(b) as being anticipated by Kleiner (USP 2,610,347). The patent to Kleiner discloses a cleaning apparatus comprising a body (10), actuator (15,19) and flushable (column 3, lines 11-16) cleaning head (12).

9. Claims 1,3,4,8-10 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by DE 29709610. '610 discloses, as best shown in the embodiments of figures 2a and 2b, a cleaning apparatus comprising a hollow body (6), actuation means (7) with a plunger (8) and a cleaning head (4) detaching coupled to the body. The body further includes a receptacle (5) with what appears to be ribs (fig 2b) for engaging the cleaning head.

10. Claims 1,4 and 8-12 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 96/37140. '140 discloses, with particular reference to the embodiment of figure 3) a cleaning apparatus comprising a hollow body (5), actuator (1) including a plunger (3) (with o-rings 6) for releasing a cleaning head attached to the body.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over DE 29709610 in view of Hardin (USP 2,719,999). '610 discloses the invention substantially as claimed with the exception of the concave surface. The patent to Hardin discloses a toilet cleaning head (10) including a concave surface (22) on portion thereof. It would

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have been obvious to one of ordinary skill to have modified the head of '610 as such so that different surfaces could be cleaned or conformed to.

13. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 29709610 in view of Reach (USP 2,038,958). '610 discloses the invention substantially as claimed with the exception of the spirally disposed bristles. The patent to Reach discloses a toilet cleaning swab comprising bristles (15',14') rolled so as to define a spiral (fig 5). Sheet (14) would read on the recited "retainer". It would have been obvious to one of ordinary skill to have modified the cleaning head of '610 as the patent to Reach discloses an art-recognized equivalent flushable cleaning head also for cleaning a toilet.

14. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over DE 29709610. '610 discloses the invention substantially as claimed with the exception of the collar. Such, as claimed, could be accomplished by the mere provision of a cylindrical gripping member/handle to the end of the actuator (7). And doing so would be an obvious choice of design.

### ***Conclusion***

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited patents are pertinent to toilet cleaning devices with some type of disposable or ejectable head.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Spisich whose telephone number is (571) 272-1278. The examiner can normally be reached on M-Th (5:30-3:00), Alternate Fri off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Mark Spisich  
Primary Examiner  
Art Unit 1744

MS